

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

MARION ANDERSON,

Case No. 2:17-cv-01963-APG-VCF

Plaintiff,

ORDER

V.

JAMES DZURENDA et al.,

Defendants.

On July 9, 2018, I dismissed the complaint with leave to amend, and directed plaintiff Anderson to file an amended complaint within 60 days. ECF No. 4 at 5. The 60-day period has expired, and Anderson has not filed an amended complaint or otherwise responded to my order.

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party’s failure to prosecute an action, failure to obey a court order, or failure to comply with local rules. *See Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack of prosecution and failure to comply with local rules).

In determining whether to dismiss an action for such reasons, the court must consider several factors: (1) the public's interest in expeditious resolution of litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the availability of less drastic alternatives. *Thompson*,

1 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at 130; *Ferdik*, 963 F.2d at
2 1260-61; *Ghazali*, 46 F.3d at 53.

3 Here, the first two factors weigh in favor of dismissal. The third factor (risk of prejudice
4 to the defendants) also weighs in favor of dismissal because a presumption of injury arises from
5 the unreasonable delay in filing a pleading ordered by the court or prosecuting an action. See
6 *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor (public policy favoring
7 disposition of cases on their merits) is greatly outweighed by the factors in favor of dismissal.
8 Finally, a court's warning to a party that his failure to obey an order will result in dismissal satisfies
9 the "consideration of alternatives" requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at
10 132-33; *Henderson*, 779 F.2d at 1424. My order requiring Anderson to file an amended complaint
11 within 60 days expressly stated: "It is further ordered that if Plaintiff fails to file an amended
12 complaint curing the deficiencies outlined in this order within 60 days of entry of this order, this
13 action shall be dismissed without prejudice." ECF No. 4 at 5. Thus, Anderson had adequate
14 warning that dismissal would result from his noncompliance.

15 IT IS THEREFORE ORDERED that this action is dismissed without prejudice based on
16 plaintiff Anderson's failure to file an amended complaint in compliance with my prior order. The
17 Clerk of Court shall enter judgment accordingly.

18 DATED THIS 17th day of September 2018.

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20 
21 Andrew P. Gordon
22 UNITED STATES DISTRICT JUDGE
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